IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No 2250 of 2001
with
Civil Application No.7144 of 2001
For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

DILIP RATILAL BHAVSAR
Versus
BANK OF BARODA

Appearance:
GIRISH PATEL ASSOC for Petitioner No. 1
RULE NOT RECD BACK for Respondent No. 1
RULE SERVED for Respondent No. 2-3
MR DARSHAN M PARIKH for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 27/07/2001

ORAL JUDGEMENT

1. This petition is already admitted. With the consent of the parties, this matter is taken up for final hearing today.

By this petition, the petitioner has challenged the decision of the respondent-Bank in seeking to retire the petitioner in pursuance of his application for voluntary retirement under the Voluntary Retirement

Scheme of the respondent-bank.

2. The petitioner tendered his application for voluntary retirement under the Voluntary Retirement Scheme of the respondent-Bank. As per the scheme of the respondent-bank, an application for voluntary retirement scheme could be withdrawn till 14th February, 2001. No withdrawal was permissible after the said date. The petitioner made his application for withdrawal of his application for voluntary retirement under the Scheme on 20th February, 2001, which was after the date permitted for the said purpose. The respondent-bank rejected the said application. When the petitioner was likely to be relieved, the petitioner filed this petition and in view of the interim order passed by this Court, the petitioner is still continuing in service.

3. Mr.Patel, learned Senior Advocate appearing in the matter for the petitioner, has raised various grounds in support of the petition. Mr.Parikh, learned Advocate appearing for the respondent-Bank, has raised various grounds of opposition to this petition. However, Mr.Patel, learned Senior Advocate, has stated that if an order, similar to the order passed in the matter of one Shri B.D. Kokharia Versus Allahabad Bank and another, in Special Civil Application No.1932 of 2001 on similar facts, where he had applied for voluntary retirement and had subsequently sought to withdraw the said application and on refusal had filed the petition and had continued in service pursuant to the interim order of this Court, is passed in this case, the ends of justice would be met. The said matter was disposed of by me by order dated 20th July, 2001.

4. In my opinion, if a similar order is passed in this matter also, interest of justice will be served and, therefore, I pass the following order :-

Mr.Patel, learned counsel for the petitioner, on instructions, states that the petitioner is willing to make a representation to the Chairman and Managing Director / Managing Director of the Bank, highlighting his difficulties in accepting the V.R.S. It will be open for the petitioner to point out, in detail, the grievances and the reasons for withdrawing his earlier application, which he has submitted, opting for V.R.S.

5. Under Clause XII of the Scheme, the Chairman and Managing Director of the respondent-Bank is the final authority on any issue concerning the Scheme.

6. Under these circumstances, the petitioner is permitted to make a representation to the Chairman and Managing Director, as stated above, and the Chairman and Managing Director may consider the request of the petitioner for allowing him to withdraw the application, which is submitted, opting out of V.R.S. It is submitted by Mr.Patel for the petitioner that the petitioner is a Class III employee and many complications, as stated in the petition, are likely to arise in his life, because of which he wanted to withdraw the application for voluntary retirement as he realised that he had made the application by mistake and without giving proper thought. The Chairman and Managing Director may consider the said fact sympathetically, keeping in mind the facts and circumstances of the case. If, ultimately, the representation of the petitioner is accepted by the Chairman and Managing Director, then naturally it will not be necessary for the petitioner, or even for the Bank, to act as per the application for V.R.S. given by the petitioner. The petitioner is directed to make a representation on or before 7.8.2001. The Chairman and Managing Director may take appropriate decision on the representation, preferably by 31.10.2001. This Court has already granted interim relief earlier and, as on today, the petitioner is still in service. Under these circumstances, status quo prevailing as on today will continue till the decision is taken by the Chairman and Managing Director on the representation of the petitioner. In case the representation is rejected, status quo order, which is prevailing as on today, will continue for a period of ten days from the date of communication of the decision to the petitioner. It is clarified that the interim relief will continue, provided the petitioner makes the representation within the stipulated time. It is also clarified that in case the representation is decided against the petitioner, it will be open for the petitioner to challenge the said decision on all points, including the points which are raised in this petition.

7. It is further clarified that this order is being passed without prejudice to the rights and contentions of the respondent-Bank and without creating any precedent against the respondent-Bank or in favour of any one, either on the ground of this order having been passed, or on the ground of the respondent-Bank favourably considering the representation of the petitioner. Mere consideration or allowing of the representation of the petitioner will also not be a ground of precedent against the respondent-Bank. The continuation of the petitioner in service pursuant to the interim order passed by this

Court and continued by this order will also not come in the way of the respondent-Bank. It is clarified that in case the representation is decided against the petitioner herein, it would be open for him to challenge the said decision in accordance with law. It is also clarified that if such decision is challenged, it would be open for the respondent to take all contentions, including the contentions which are taken in the present petition as well.

The petition stands disposed of in view of what is stated above. Rule is discharged with no order as to costs.

In view of this order, C.A.No.7144 of 2001 is also disposed of.

27th July, 2001 (P.B. Majmudar, J.)

****

(apj)